

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 52.10, 150.06, and 150.16,
Title 14, California Code of Regulations

Re: Nearshore Regional Total Allowable Catches, Trip Limits and Weekday Closures

- I. Date of Initial Statement of Reasons: January 17, 2003
 Date of Amended Initial Statement of Reasons: May 5, 2003
- II. Date of Pre-adoption Statement of Reasons: May 20, 2003
- III. Date of Final Statement of Reasons: August 12, 2003
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: December 20, 2002
 Location: Sacramento, CA
 - (b) Discussion Hearing: Date: April 4, 2003
 Location: Visalia, CA
 - (c) Discussion Hearing: Date: May 8, 2003
 Location: Riverside, CA
 - (d) Discussion Hearing: Date: June 20, 2003
 Location: Mammoth Lakes, CA
 - (e) Adoption Hearing: Date: August 1, 2003
 Location: Long Beach, CA
- V. Update:

A non-substantive organizational change was made to the proposed language of Section 52.10 and subsection 150.16 (e)(6), where the species were changed to list in an alternate order for consistency with other sections which are being amended as part of this regulatory action. Minor technical and grammatical adjustments were also made to the proposed regulatory language to most accurately reflect the Commission's decision to maintain a statewide total allowable catch (Subsections 52.10 (a), (d) and (e), and subsection 150.16 (e)(6)).

The Commission adopted the proposed regulatory changes to Sections 52.10, 150.06, and 150.16, Title 14, CCR and selected the Department's recommended

options. The Commission took this action at its August 1, 2003 meeting in Long Beach. Although the June 20, 2003 date was noticed as the date of the adoption hearing in the regulatory notice register, the Commission deferred action at that time. The following is a section-by-section description of all measures noticed in the Continuation Notice published May 30, 2003 that were under consideration for adoption by the Commission at the August 1, 2003 meeting in Long Beach. The Commission's decision on each item is provided.

Section 52.10: Statewide total allowable catches (TACs) and allocations for sheephead, cabezon, and greenlings. The Commission amended existing Section 52.10, Title 14, CCR to provide for one statewide commercial TAC and one statewide recreational TAC for nearshore cabezon, greenlings and sheephead (CGS) fisheries. The term total allowable catch or TAC was adopted to replace optimum yield (OY) for consistency with the Nearshore Fishery Management Plan. In addition, the Commission adopted a revised allocation ratio between the commercial and recreational fisheries for cabezon, greenlings, and sheephead. In doing so the Commission adhered to guidance in Section 52.05, Title 14, CCR to use a historical ratio for allocation between the commercial and recreational CGS fisheries based on catches during 1983-1989 and 1993-1999. This revised allocation provides a greater portion of cabezon and greenling allowable catches to recreational fisheries. A non-substantive organizational change was made in the language of 52.10 where the species were organized to list in an alternate order for consistency with other sections.

Section 150.06: Amend existing Section 150.06 to eliminate the existing weekday closures for commercial cabezon and greenling fisheries. The Commission eliminated a provision which prohibited commercial take of cabezon and greenlings Thursday through Sundays.

Section 150.16: Changes in Section 150.16 include two major components.

1. Establish two-month commercial cumulative trip limits to spread allowable catches of nearshore fish stocks through a longer fishing season. The Commission adopted the recommended cumulative two-month trip limits for permittees in the commercial CGS fisheries. The adopted trip limits apply statewide and, based on constituent input for sheephead, cabezon, vary seasonally and are calculated to allow fishermen to fish as long as possible year round while staying within overall allowable annual total catch levels. A non-substantive organizational change was made in the language of 150.16 where the species were organized to list in an alternate order for consistency with other sections.

2. Establish a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and for California scorpionfish would apply to individual California licenses. The Commission adopted the recommended requirement that requires that each nearshore fishery

permittee be limited individually to federal limits established per vessel. This will stop the practice of fishermen using multiple vessels in order to land a federally-authorized trip limit on each vessel.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those Considerations.

Comments received by letters and at the notice hearing on December 12, 2003 and the discussion hearings April 4, 2003 and May 8, 2003 were documented in the Pre-Adoption Statement of Reasons. Those comments were incorporated into the Final Statement of Reasons Response to Comment Table 1(attached) which reflects all comments received through the rulemaking.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

VIII. Location of Department files:

Department of Fish and Game
Marine Region
1416 Ninth Street
Sacramento, CA 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

From within the range of options presented for consideration, the Commission has determined that no other alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

(b) No Change Alternative:

Not adopting the proposed regulations would demonstrate an intention to maintain the existing regulations which specify optimum yields and allocations for CGS, and an intention to not modify existing weekday closure regulations for cabezon and greenling commercial fisheries, which are inconsistent with regulations for other nearshore resources. Furthermore, trip limits would not be

instituted and derby commercial fisheries would prevail for the species. Additionally, federal trip limits would continue to be less effective at slowing the rates of catch for minor nearshore rockfish if the Commission does not link federally imposed vessel-based limits to individual California commercial licensees. See section III(a) of the Amended Initial Statement of Reasons published May 5, 2003.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Adverse Economic Impact on Businesses, Including the Ability of California Businessmen to Compete with Business in Other States:

The Commission has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact on approximately 184 businesses, primarily nearshore commercial fishermen but including some fish processors, distributors, baitshops, markets and sportfishing services providers, but not on the ability of California businesses to compete with businesses in other states. See attached form 399, addendum and appendix for a complete analysis of the impacts.

Based on revised allocations for California sheephead provided in the Amended Initial Statement of Reasons (Item 1, Options 1B and 2B), it is anticipated that relative to values presented in the economic information originally outlined in the Initial Statement of Reasons, the ex-vessel revenue paid to commercial fishermen would decrease approximately 5 percent, and the economic contribution of the recreational fishery would increase approximately 3 percent. These percentage values equate to an additional annual loss of approximately \$25,000 to the commercial sheephead fishery in terms of ex-vessel revenue and would result in approximately \$230,000 in increased annual economic contribution to the California recreational fishery from the originally proposed allocation values.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Each of the three nearshore fishery management changes being considered would have different impacts, ranging from slightly increased benefits to nominal losses in production, depending on which option is selected. None of the options would create new direct costs or reporting requirements to individuals or businesses. See attached form 399, addendum and appendix for a complete analysis of the impacts.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. See attached form 399, addendum and appendix for a complete analysis of the impacts.

(d) Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

(h) Affect on Housing Costs: None

Updated Informative Digest/Policy Statement Overview

The proposed actions being considered by the Commission would institute three changes that implement policy directives contained within the Commission approved Nearshore Fishery Management Plan. These include the following additions or changes to existing regulations:

- **Total Allowable Catch (TAC):** establishing regional Total Allowable Catch (TAC) levels to limit take within discrete geographic areas for cabezon, greenlings and sheephead (CGS) (Item 1, Option 1A and 1B below), or maintain statewide TACs (Item 1, Options 2A and 2B below), and re-apportion the existing allocation of these resources between sport and commercial fisheries;
- **CGS Trip Limits/Weekday Closure:** instituting cumulative trip limits to spread allowable commercial catches of CGS through a longer fishing season (Item 2 below) and/or modifying existing weekday closures for the cabezon and greenling commercial fisheries (Item 3 below);
- **Federal Trip Limits for Individuals:** establishing a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and California scorpionfish would apply to individual California commercial licensees in order to slow catch rates. The federally-defined trip limits which are vessel-based would also continue to apply (Item 4 below).

Existing regulations have established statewide harvest limits (in pounds) for cabezon, greenlings, and sheephead and identify how that poundage is allocated to the recreational and commercial fishery. Modification to these regulations are proposed in item 1 below.

Item 1, Total Allowable Catch (TAC)

Item 1, Option 1A: would establish four commercial TACs (one per region) and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR.

The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	8,000 pounds	91,600 pounds
North-Central Coast Region	20,100 pounds	
South-Central Coast Region	61,700 pounds	
South Coast Region	12,700 pounds	

The total statewide allowable catch of greenlings would be 37,800 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,800 pounds	24,900 pounds
North-Central Coast Region	5,600 pounds	
South-Central Coast Region	5,300 pounds	
South Coast Region	200 or [0-200] pounds	

The total statewide allowable catch of sheephead would be 205,600 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	124,500 pounds
North-Central Coast Region	100 or [0-100] pounds	
South-Central Coast Region	1,500 pounds	
South Coast Region	79,500 pounds	

Item 1, Option 1B: would establish four commercial TACs (one per region) and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999.

The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	5,500 pounds	118,300 pounds
North-Central Coast Region	16,100 pounds	
South-Central Coast Region	49,200 pounds	
South Coast Region	5,000 pounds	

The total statewide allowable catch of greenlings would be 37,700 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,300 pounds	34,200 pounds
North-Central Coast Region	1,100 pounds	
South-Central Coast Region	1000 pounds	
South Coast Region	100 or [0-100] pounds	

The total statewide allowable catch of sheephead would be ~~205,600~~ 205,700 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	126,400 <u>130,300</u> pounds
North-Central Coast Region	100 or [0-100] pounds	
South-Central Coast Region	2,400 <u>2,200</u> pounds	
South Coast Region	77,300 <u>73,100</u> pounds	

Item 1, Option 2A: would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR, but updates the values to reflect improvements in analysis of catch data.

-The total statewide allowable catch of cabezon would be 194,000 pounds, allocated 102,400 pounds to the commercial fishery and 91,600 pounds to the recreational fishery.

-The total statewide allowable catch of greenlings would be 37,600 pounds, allocated 12,700 pounds to the commercial fishery and 24,900 pounds to the recreational fishery.

-The total statewide allowable catch of sheephead would be 205,500 pounds, with 81,000 pounds allocated to the commercial fishery and 124,500 pounds to the recreational fishery.

Item 1, Option 2B: would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999, but updates the values to reflect improvements in analysis of catch data.

-The total statewide allowable catch of cabezon would be 193,900 pounds, with

75,600 pounds allocated to the commercial fishery and 118,300 pounds to the recreational fishery.

-The total statewide allowable catch of greenlings would be 37,600 pounds, with 3,400 pounds allocated to the commercial fishery and 34,200 pounds to the recreational fishery.

-The statewide allowable catch of sheephead would be 205,500 pounds, with ~~79,400~~ 75,200 pounds allocated to the commercial fishery and ~~126,400~~ 130,300 pounds to the recreational fishery.

Minor revisions to the proposed allocation values for California sheephead originally noticed in Item 1 have been modified using underline/strikeout format above. Public comment concerning historical landings data used to calculate total allowable catches and allocations led to closer scrutiny of existing data. Based on that review, the originally-proposed changes to the allocations have now been refined, using the best data available at this time.

Existing emergency regulations which will expire May 1, 2003 establish a two-month cumulative trip limit for the commercial fishery for each species in the CGS complex for the January through February 2003 time period. Additional regulations are proposed in item 2 below.

Item 2, CGS Trip Limits

Item 2, Option 1: would establish commercial trip limits that are the same statewide for each 2-month period that the fishery is open at volumes selected for each species from the range of values provided.

(A) Cabezon: Not more than [200 -2,000] pounds per individual per two-month limit period

(B) Sheephead: Not more than [200 -2,000] pounds per individual per two-month limit period

(C) Greenlings: Not more than [25 - 400] pounds per individual per two-month limit period

Item 2, Option 2: would establish commercial trip limits that are the same statewide at a set value per landing period with catch volume equivalent to a multiplier of federal trip limits for shallow nearshore rockfish.

(A) Cabezon: The pounds per individual per two-month limit period is equal to the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.

(B) Sheephead: The pounds per individual per two-month limit period is equal to two times the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.

(C) Greenlings: The pounds per individual per two-month limit period is equal to

one-quarter of the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.

Item 2, Option 3: would establish commercial trip limits that are the same statewide but allow catch volume to differ between monthly periods, based on constituent input, from the range of values below:

	Cabazon	Sheephead	Greenlings
January-February	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
March-April	0 pounds	0 pounds	0 pounds
May-June	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
July-August	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
September-October	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
November-December	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds

Item 2, Option 4: would establish trip limits which differ for each of the four management regions throughout the state, and differ between each landing period for the periods the fishery is open, which allows for trip limits to be set in accordance with regional TACs (coupled with Option 1A and 1B above), and based on constituent input. Trip limits ranging from 0-8000 pounds of cabazon, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0-8000 pounds of sheephead, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0-500 pounds of greenlings, dependent on region and two-month limit period, are proposed.

Existing regulations addressed under item 3 below established a prohibition on the commercial take of cabazon, kelp greenling, and rock greenling from Thursday through Sunday, inclusive.

Item 3, Weekday Closures

Item 3, Option 1: would eliminate the provision which prohibits the commercial take of cabazon, kelp greenling, and rock greenling from Thursday through Sunday;

Item 3, Option 2: would change the language of the regulation to prohibit possession as well as take of these species Thursday through Sunday; and/or

Item 3, Option 3: would change the regulation to include prohibiting the commercial take and possession of all nearshore fish stocks as defined in Section 1.90 from Thursday through Sunday.

No regulations addressed under item 4 below exist. New regulations are

proposed in item 4 below.

Item 4, Federal Trip Limits for Individuals

Item 4: would establish a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and for California scorpionfish would apply to individual California commercial licensees in order to slow catch rates. The federally defined trip limits which are vessel-based would also continue to apply.

Actions by the Commission:

A non-substantive organizational change was made to the proposed language of Section 52.10 and subsection 150.16 (e)(6), where the species were changed to list in an alternate order for consistency with other sections which are being amended as part of this regulatory action. Minor technical and grammatical adjustments were also made to the proposed regulatory language to most accurately reflect the Commission's decision to maintain a statewide total allowable catch (Subsections 52.10 (a), (d) and (e), and subsection 150.16 (e)(6)).

The Commission adopted the proposed regulatory changes to Sections 52.10, 150.06, and 150.16, Title 14, CCR and selected the Department's recommended options. The Commission took this action at its August 1, 2003 meeting in Long Beach. Although the June 20, 2003 date was noticed as the date of the adoption hearing in the regulatory notice register, the Commission deferred action at that time. The following is a section-by-section description of all measures noticed in the Continuation Notice published May 30, 2003 that were under consideration for adoption by the Commission at the August 1, 2003 meeting in Long Beach. The Commission's decision on each item is provided.

Section 52.10: Statewide total allowable catches (TACs) and allocations for sheephead, cabezon, and greenlings. The Commission amended existing Section 52.10, Title 14, CCR to provide for one statewide commercial TAC and one statewide recreational TAC for nearshore cabezon, greenlings and sheephead (CGS) fisheries. The term total allowable catch or TAC was adopted to replace optimum yield (OY) for consistency with the Nearshore Fishery Management Plan. In addition, the Commission adopted a revised allocation ratio between the commercial and recreational fisheries for cabezon, greenlings, and sheephead. In doing so the Commission adhered to guidance in Section 52.05, Title 14, CCR to use a historical ratio for allocation between the commercial and recreational CGS fisheries based on catches during 1983-1989 and 1993-1999. This revised allocation provides a greater portion of cabezon and greenling allowable catches to

recreational fisheries. A non-substantive organizational change was made in the language of 52.10 where the species were organized to list in an alternate order for consistency with other sections.

Section 150.06: Amend existing Section 150.06 to eliminate the existing weekday closures for commercial cabezon and greenling fisheries. The Commission eliminated a provision which prohibited commercial take of cabezon and greenlings Thursday through Sundays.

Section 150.16: Changes in Section 150.16 include two major components.

1. Establish two-month commercial cumulative trip limits to spread allowable catches of nearshore fish stocks through a longer fishing season. The Commission adopted the recommended cumulative two-month trip limits for permittees in the commercial CGS fisheries. The adopted trip limits apply statewide and, based on constituent input for sheephead, cabezon, vary seasonally and are calculated to allow fishermen to fish as long as possible year round while staying within overall allowable annual total catch levels. A non-substantive organizational change was made in the language of 150.16 where the species were organized to list in an alternate order for consistency with other sections.

2. Establish a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and for California scorpionfish would apply to individual California licenses. The Commission adopted the recommended requirement that requires that each nearshore fishery permittee be limited individually to federal limits established per vessel. This will stop the practice of fishermen using multiple vessels in order to land a federally-authorized trip limit on each vessel.

Regulatory Language

Section 52.10, Title 14, CCR, is amended to read:

52.10. Take of Sheephead, Cabezon and Greenling.

(a) ~~Optimum Yields.~~ Total Allowable Catches (TACs) and Allocations. Based on optimum yields total allowable catches specified for each calendar year, catch may not exceed the following amounts

- ~~(1) California sheephead, 223,483 pounds;~~
- ~~(2) cabezon, 178,728 pounds; and~~
- ~~(3) greenlings of the genus Hexagrammos, 39,823 pounds.~~

~~(b) Allocation. Annual harvest of these species is allocated between sport and commercial fisheries as follows:~~

- ~~(1) California sheephead.~~
 - ~~(A) The recreational fishery is allocated 135,524 pounds.~~
 - ~~(B) The commercial fishery is allocated 87,959 pounds.~~
- ~~(2) Cabezon.~~
 - ~~(A) The recreational fishery is allocated 84,330 pounds.~~
 - ~~(B) The commercial fishery is allocated 94,398 pounds.~~
- ~~(3) Greenlings of the genus Hexagrammos.~~
 - ~~(A) The recreational fishery is allocated 26,403 pounds.~~
 - ~~(B) The commercial fishery is allocated 13,420 pounds.~~

(1) California sheephead. The statewide allowable catch of sheephead is 205,500 pounds, allocated as follows:

- (A) The commercial fishery is allocated 75,200 pounds.
- (B) The recreational fishery is allocated 130,300 pounds

(2) Cabezon. The total statewide allowable catch of cabezon is 193,900 pounds, allocated as follows:

- (A) The commercial fishery is allocated 75,600 pounds.
- (B) The recreational fishery is allocated 118,300 pounds.

(3) Greenlings of the genus Hexagrammos. The total statewide allowable catch of greenlings is 37,600 pounds, allocated as follows:

- (A) The commercial fishery is allocated 3,400 pounds.
- (B) The recreational fishery is allocated 34,200 pounds.

~~(c) (b) Mechanism for Fishery Closures.~~ The department will estimate from the current trends in catch and using the best available scientific information the time at which ~~the~~ any commercial or recreational fishery allocation or total allowable catch for sheephead, cabezon, or greenlings specified in subsection (a) ~~(b)~~ will be reached. The department will close the fishery at the time the allocation or total allowable catch is reached or is projected to be reached prior to the end of the calendar year.

~~(d) (c)~~ The department shall give the public and the commission no less than 10 days notice of any recreational fishery closure pursuant to this Section via a department news release.

~~(e) (d)~~ The department shall give ~~Nearshore Fishery Permit~~ holders of nearshore fishery permits no less than 10 days notice of any commercial fishery closure pursuant to this

Section via a notification letter sent to the permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of any commercial fishery closure pursuant to this Section via a department news release.

NOTE:

Authority cited: Sections 200, 202, 205, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 97, 7056, 7071, 8585.5, 8587 and 8587.1, Fish and Game Code.

Subsection (d) of Section 150.06, Title 14, CCR, is amended to read:

150.06. Management Areas Defined; Closure Periods Defined.

~~(d) The commercial take of cabezon, kelp greenling, and rock greenling is prohibited from Thursday through Sunday, inclusive.~~

NOTE:

Authority cited: Sections 7071, 7652 and 8587.1, Fish and Game Code. Reference: Sections 7652, 8585.5 and 8587.1, Fish and Game Code.

Section 150.16, Title 14, CCR, is amended to read:

150.16. Commercial Take of Nearshore Fishes.

(a) Notwithstanding Section 8588(b) of the Fish and Game Code, minimum size limits (total length) are as follows:

- (1) black-and-yellow rockfish (*Sebastes chrysomelas*) 10 in.
- (2) cabezon (*Scorpaenichthys marmoratus*) 15 in.
- (3) California scorpionfish or sculpin (*Scorpaena guttata*) 10 in.
- (4) California sheephead (*Semicossyphus pulcher*) 13 in.
- (5) China rockfish (*Sebastes nebulosus*) 12 in.
- (6) gopher rockfish (*Sebastes carnatus*) 10 in.
- (7) grass rockfish (*Sebastes rastrelliger*) 12 in.
- (8) greenlings of the genus *Hexagrammos* (*Hexagrammos spp.*) 12 in.
- (9) kelp rockfish (*Sebastes atrovirens*) 10 in.

(b) Species of nearshore fish stocks as defined in Section 1.90, Title 14, CCR, must be sorted by species prior to weighing and the weight reported separately on the Fish and Game receipt.

(c) Any nearshore fish listed under this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(d) Regulations adopted to modify the minimum size limits or to specify maximum size limits shall be based on the best available scientific information and adopted pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.

[PRINTERS NOTE: Repeal subsections (e), (f) and (g) as they existed prior to the emergency filing on 12/30/02, referenced in current Barclay's History Note #5]

~~(e) Kelp greenling and rock greenling shall not be taken for commercial purposes off California from September 1, 2001 through December 31, 2001, inclusive. This subsection shall be repealed effective January 1, 2002.~~

~~(f) Cabezon shall not be taken for commercial purposes off California through December 31, 2001, inclusive. This subsection shall be repealed effective January 1, 2002.~~

~~(g) California sheephead shall not be taken for commercial purposes off California through December 31, 2001, inclusive. This subsection shall be repealed effective January 1, 2002.~~

(e) Cumulative trip limits for sheephead, cabezon, greenlings of the genus Hexagrammos, California scorpionfish, and subgroups of rockfish.

(1) A cumulative trip limit is the total number of pounds of a species or a species group that may be taken and retained, possessed, or landed by an individual commercial licensee in a cumulative trip limit period without a limit on the number of landings or trips.

(2) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

(A) January 1 through the last day in February.

(B) March 1-April 30.

(C) May 1-June 30.

(D) July 1-August 31.

(E) September 1-October 31.

(F) November 1-December 31.

(3) Landings toward a cumulative trip limit value for a defined cumulative trip limit period provided in this subsection are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(4) Any person landing species for which there is a cumulative trip limit established pursuant to this Section shall keep in their immediate possession copies of any and all reports of landings required by state laws or regulations throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(5) Cumulative trip limit values noticed in the Federal Register by the National Marine Fisheries Service for the cumulative trip limit periods for shallow nearshore rockfish, deeper nearshore rockfish, and California scorpionfish apply to each individual California commercial licensee in addition to the federally-defined vessel-based limits. Landings are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(6) Cumulative trip limits for sheephead, cabezon and greenlings.

(A) The cumulative trip limit per individual per two-month limit period when fishing is allowed pursuant to Section 150.06, Title 14, CCR, is as follows:

	<u>Sheephead</u>	<u>Cabezon</u>	<u>Greenlings</u>
<u>January-February</u>	<u>2,000 pounds</u>	<u>100 pounds</u>	<u>25 pounds</u>
<u>March-April</u>	<u>2,000 pounds</u>	<u>200 pounds</u>	<u>25 pounds</u>
<u>May-June</u>	<u>2,400 pounds</u>	<u>1,000 pounds</u>	<u>25 pounds</u>

<u>July-August</u>	<u>2,400 pounds</u>	<u>1,000 pounds</u>	<u>25 pounds</u>
<u>September-October</u>	<u>2,400 pounds</u>	<u>400 pounds</u>	<u>25 pounds</u>
<u>November-December</u>	<u>2,400 pounds</u>	<u>100 pounds</u>	<u>25 pounds</u>

(B) The department will evaluate year-to-date catch levels against total allowable catch limits defined in Section 52.10. Based on these data, when the department determines that cumulative trip limits defined in this Section need significant adjustment upward or downward (by 50 percent or more) in order to spread the allowable catches through the open season to the extent possible and prevent early attainment of the annual total allowable commercial catch, the cumulative trip limits defined in this Section may become inoperative and may be replaced with alternative limits as determined by the department. The department may perform these in-season analyses between May and September of each year; and provide notification of changes by October 15 of each year, as described in subsection (e)(6)(C).

(C) The department shall give holders of nearshore fishery permits no less than 10 days notice of any cumulative trip limit change pursuant to this Section via a notification letter sent to the permittee's address on file with the department.

(D) When optimum yields, allocations, total allowable catches or other catch limits defined in Section 52.10 are reached, and action to close the fishery is taken pursuant to Section 52.10 subsection (b), cumulative trip limits defined in this Section become inoperative.

(f) All other trip limits (including daily, weekly and cumulative trip limits) established for commercial rockfish, a subgroup of rockfish, or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional requirements regarding fishing for federal groundfish in state waters.

NOTE:

Authority cited: Sections 240, 7071, 8587.1 and 8588, Fish and Game Code.

Reference: Sections 240, 8585.5, 8587.1 and 8588, Fish and Game Code.